

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

VIVIAN A. OUTLEY,

Plaintiff,

v.

**5:09-CV-141
(FJS/VEB)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES

**LEGAL SERVICES OF
CENTRAL NEW YORK**
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Attorneys for Plaintiff

OF COUNSEL

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Attorneys for Defendant

JENNIFER S. MCMAHON, ESQ.

SCULLIN, Senior Judge

ORDER

Plaintiff commenced this action on February 5, 2009, seeking judicial review of the Commissioner's decision pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3). *See* Dkt. No. 1. In a Report and Recommendation dated August 26, 2010, Magistrate Judge Bianchini recommended that the Court remand this action to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). *See* Dkt. No. 18 at 24. Neither party filed any objections to this Report and Recommendation.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Bianchini's August 26, 2010 Report and Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

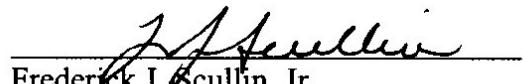
ORDERS that Magistrate Judge Bianchini's August 26, 2010 Report and Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that the Commissioner's decision denying disability benefits is **REVERSED** and this case is **REMANDED** for further proceedings in accordance with the terms set forth in Magistrate Judge Bianchini's August 26, 2010 Report and Recommendation pursuant to sentence four of 42 U.S.C. § 405(g); and the Court further

ORDERS that the Clerk of the Court shall enter judgment and close this case.

IT IS SO ORDERED.

Dated: September 11, 2010
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge